

AO 91 (Rev. 11/11) Criminal Complaint

## UNITED STATES DISTRICT COURT

for the  
Northern District of TexasJUL 29 2019  
9:10 am  
CLERK, U.S. DISTRICT COURT  
By: DeputyUnited States of America  
v.

MICHAEL NELSON

Case No.

1 - 19 MJ - 00771

Defendant(s)

## TELEPHONIC CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of unknown to July 17, 2019 in the county of Taylor and elsewhere in the  
Northern District of Texas, the defendant(s) violated:

## Code Section

21 USC §§846, 841(a)(1) and  
(b)(1)(A)(viii)

## Offense Description

Conspiracy to Distribute and Possess with Intent to Distribute 500 grams or more of a mixture and substance containing a detectable amount of methamphetamine, a Schedule II Controlled Substance.

This criminal complaint is based on these facts:

See attached affidavit of FBI SA Sean Means which is incorporated herein.

☒ Continued on the attached sheet.Attested to by the Applicant, FBI Special Agent Sean E. Means,  
in accordance with the requirements of Federal Rules of  
Criminal Procedure, Rule 4.1, by telephone, on  
this            day of July, 2019.

Complainant's signature

Sean Means, Special Agent - FBI

Printed name

Date: 07/29/2019

Judge's signature

City and state: Wichita Falls, TX

HAL R. RAY, Jr., United States Magistrate Judge

Printed name and title

**AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT**

I, Sean E. Means, being first duly sworn, depose and say:

**I. Introduction**

1. My name is Sean E. Means, I am a Special Agent with the Federal Bureau of Investigation (FBI), and have been so employed since 2006. I am currently assigned to the Abilene, Texas, Resident Agency. As part of my duties and responsibilities as an FBI Special Agent, I am authorized to investigate crimes involving the distribution of illegal narcotics pursuant to Title 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(B)(viii). I am familiar with the facts of this investigation through my personal involvement and through discussions with other law enforcement personnel involved in the investigation.

**II. Probable Cause**

2. I have probable cause to believe that Rick Ben Herrera and Benito Herrera, Jr. have violated Title 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(B)(viii), that is, conspiracy to possess with intent to distribute 500 grams and more of a detectable amount of methamphetamine and possession with intent to distribute 500 grams and more of a mixture or substance containing a detectable amount of methamphetamine.

3. The following information is based on my own observations, information received by me from other law enforcement officers involved in the investigation, as well as other witnesses and concerned parties. Since I am submitting this affidavit for the limited purpose of establishing probable cause, I have not included every fact known to me and other investigators. Rather, I am only submitting the facts necessary to establish probable cause that Michael Nelson knowingly and intentionally possessed with intent to

distribute 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine.

### **III. Background**

4. On April 12, 2019, Julio Noel Robles (Robles) was interviewed at the Taylor County Jail. Robles stated that he met Michael Nelson (Nelson) approximately eight or nine months before the interview. Nelson told Robles that he owns a granite business, All Star Granite, and they exchanged phone numbers. Nelson tried to convince Robles to sell methamphetamine for him. In September 2018, Robles went to Nelson's house and met with Nelson. Robles also met Nelson's roommate, "Benny" (known to be Benito Herrera, Jr.). Nelson told Robles that he had nine kilograms of methamphetamine to sell if Robles wanted it. Robles saw 1 or 2 gallon-sized Ziploc bags of methamphetamine in Nelson's kitchen cabinet. Nelson gave Robles a bag of methamphetamine to sell. On September 17, 2018, Robles was arrested with more than 70 grams of methamphetamine. Robles stated that the methamphetamine came from Nelson.

5. On July 17, 2019, agents from the Taylor County (Texas) Sheriff's Office (TCSO) and FBI received information that Rick Ben Herrera would be transporting a quantity of methamphetamine in Abilene, Texas. Agents observed a black Ford Mustang near Interstate 20 and Loop 322 in Abilene, Texas, driven by Rick Ben Herrera (hereinafter referred to as Rick). The vehicle was stopped for a traffic violation. A

narcotics detection canine conducted a free-air sniff of the vehicle and the canine alerted to the odor of narcotics in the vehicle. A search of the vehicle was conducted and agents found and seized approximately 115 grams of a crystal-like substance contained in four baggies. The field test of the substance tested positive for methamphetamine.

6. Rick was transported to the Taylor County Sheriff's Office where he was interviewed. He advised agents that he, together with his father, Benito Herrera, Jr. (hereinafter referred to as Benito), and their roommate and employer at All Star Granite, Michael Nelson, had been selling methamphetamine together for several months. Rick advised that Nelson is the person who gets the methamphetamine and Benito and Rick sell the methamphetamine for Nelson because Nelson doesn't know how to sell it. Rick also advised that there was more methamphetamine at their residence, 1134 Cabernet Drive, Abilene, Texas.

7. A search warrant for 1134 Cabernet Drive was applied for and signed by a District Judge in Taylor County, Texas. A search of the residence resulted in the seizure of approximately 618 grams of a crystal-like substance which tested positive for methamphetamine, a large quantity of cash, marijuana and other drug paraphernalia, IJ70 9mm Makarov handgun, and a stolen OMNI hybrid Multi-Cal American Tactical handgun.

8. Following the search warrant execution, Benito was interviewed. Benito admitted to the possession of the methamphetamine seized at his residence. He also

advised that he and his roommate and employer at All Star Granite, Michael Nelson, had been selling methamphetamine together for approximately one year. Benito advised that Nelson is the person who gets the methamphetamine.

9. On July 24, 2019, search warrants were executed on the cellular telephones seized from Benito and Rick at the time of their arrests. The cellular telephone that was in the possession of Benito contained numerous text messages between Benito and telephone number 325-386-7941 which is labeled by the contact name "Mikes Hot Line". It is believed that this number belonged to Michael Nelson because within a string of text messages, there are photographs taken by Nelson of himself and sent to Benito while doing various activities such as driving. Nelson also sent a photograph of a check he intended to cash. The check is made out to "All Star Granite/Michael Nelson".

10. Some of the text messages discuss Nelson's trips to Oak Cliff, Texas to purchase methamphetamine. In another conversation, Nelson gives Benito and Rick instructions pertaining to their employment at All Star Granite (Nelson's company where Benito and Rick are working), as well as instructions from Nelson to Benito and Rick pertaining to distributing methamphetamines and collecting money from those sales.

11. On July 11, 2019, text messages between Benito and Nelson indicate that Nelson had collected money from Benito and taken it to someone who had provided narcotics. The discussion includes Nelson saying he wants to raise the price to 400 from 350 because he is taking a lot "of risk not to profit". Benito then tells Nelson "I'm taking

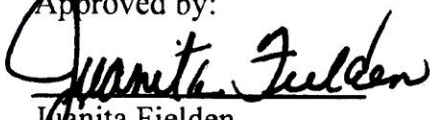
all the risk for selling them, and not to make anything for selling urs (sp), I bought the same like u, and I'm good at 350 that's 50% profit".

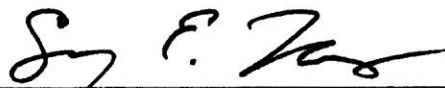
In a text message on July 15, 2019, between Nelson and Benito, Nelson told Benito, "Ok u can sell your 18 I just sold mine".

**CONCLUSION**

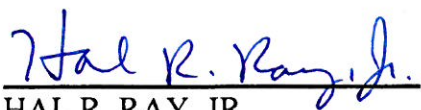
11. Based upon all of the information set forth in this application, I believe there is probable cause to believe that Michael Nelson have committed a violation of Title 21 U.S.C. §§ 846, 841(a)(1) and 841(b)(1)(A)(viii), that is, Conspiracy to Distribute and Possess with intent to distribute 500 grams and more of a mixture or substance containing a detectable amount of methamphetamine.

Approved by:

  
Juanita Fielden  
Assistant U.S. Attorney

  
Sean E. Means, Special Agent  
Federal Bureau of Investigation

Attested to by the Applicant, FBI Special Agent Sean E. Means, in accordance with the requirements of Federal Rules of Criminal Procedure, Rule 4.1, by telephone, on this 29TH day of July, 2019.

  
HAL R. RAY, JR.  
United States Magistrate Judge